

Appl. No. : 10/736,431
Filed : December 15, 2003

REMARKS

The Office Action mailed on October 24, 2005 has been carefully considered. Accordingly, the changes presented herewith, taken with following remarks, are believed sufficient to place the present application in condition for allowance. Reconsideration is respectfully requested.

Claims 2-3, 6-42 are currently pending in the instant application. New claims 43-45 have been submitted for consideration and further clarify aspects of independent claims 42, from which they depend. No new matter has been introduced by the addition of claims 43-45. Claims 6-11 and 18 were withdrawn from consideration by Applicant in the correspondence mailed on August 18, 2005, while claims 17, 19-20, and 40-41 were withdrawn from consideration by the Examiner based on the assertion that there is no evidence from the original disclosure that elected Species I possesses the elements set forth in the further limitations of said claims. Claims 21-35 have been cancelled without prejudice, while claims 1, 4-5 were previously cancelled in the correspondence mailed on August 18, 2005. Applicant reserves the right to pursue claims 1, 4-5, and 21-35 in a continuation or divisional application.

The Examiner also has objected to certain informalities in the specification. Accordingly, the paragraph starting on page 8, line 15 has been replaced and claim 3 has been amended per the Examiner's requirements.

Claims 2-3, 12, 16, 36-37, and 42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by CH 681 687 A5 ("Payer"), while claims 13-15 and 38-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Payer.

Claims 2-3, 12, 16, 36-37, and 42 Are Not Anticipated by Payer

Claims 2-3, 12, 16, 36-37, and 42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Payer. Applicant respectfully traverses the rejection for the following reasons.

Per the Derwent Abstract provided by the Examiner, Payer teaches a bluey-type edge area of a force transmission part that is intended for engagement on the lens capsule in the area of the zonular lamella and transmits the alterations in shape of the lens capsule during the accommodation process to the lens body, activating a corresponding alteration of the shape and thereby the refractory force of the lens body. A translation of Payer into English has been provided and is contained in an Appendix to the current response.

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In contrast to the teachings of Payer, claim 42 is directed to an intraocular lens for implantation within an eye comprising, in pertinent part, an optic positioning element comprising a posterior face, an anterior face, a bight, wherein the anterior face, posterior face and bight cooperate to form a chamber within said optic positioning element. The optic positioning element posterior face or anterior face includes an opening therethrough for allowing fluids to enter and fill said chamber.

Payer does not teach or suggest an optic positioning element comprising a posterior face, anterior face, and bight cooperating to form a chamber. To the contrary, Payer teaches an artificial lens 1 comprising a force transmission section 3 that forms a single piece with a deformable lens body 2. The force transmission section 3 is curved in the backward direction, yielding a plate-like design of the artificial lens 1. Payer, Fig. 1 and English translation of Payer, page 2, lines 12-18. Thus, Payer fails to teach or suggest an optic positioning element comprising three elements that together cooperate to form a chamber (e.g., the anterior face, posterior face, and bight illustrated in Applicant's application in FIGS. 1-3 and described in the specification as filed in the paragraph starting on page 5, line 24). Indeed, it appears that the Examiner has failed to cite such structure in his rejection of claims 2-3, 12-16, 36-37, and 42 and, therefore, Applicant asserts that he has not satisfied the requirement under 35 U.S.C. § 102 that a single prior art reference teach or suggest all the claim limitations.

At least because Payer does not teach or suggest all of the limitations of claim 42, Applicant requests the Examiner to indicate that claim 42 is allowable. Claims 2-3, 12, and 16 depend from claim 42 and further define the invention of claim 42. Thus, claims 2-3, 12, and 16 are patentable over Payer at least for the same reasons that claim 42 is patentable thereover, and are patentable in their own right as well.

Claim 36 is directed to a method of providing accommodation to an eye, the method being limited to an optic positioning element similar to that specified in claim 42. As such, Applicant asserts that Payer does not teach all the limitations of method claim 36 at least for the same reasons that Payer does not teach all the limitations of claim 42. Accordingly, at least because Payer does not teach or suggest all of the limitations of claim 36, Applicant requests the Examiner to indicate that claim 36 is allowable. Claim 37 depends from claim 36 and further defines the invention of

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claim 36. Thus, claim 37 is also patentable over Payer at least for the same reasons that claim 36 is patentable thereover, and is patentable in its own right as well.

Claims 13-15 and 38-39 Are Patentable Over Payer

Claims 13-15 and 38-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Payer. Applicant respectfully traverses the rejection for the following reasons. Claims 13-15 and claims 38-39 depend from claim 42 and claim 36, respectively. Applicant has argued that Payer does not teach specified limitations of claims 42 and 36. Applicant contends that it would not have been obvious to one of skill in the art at the time of his invention to combine the above cited limitations arguably absent from Payer with the teachings of Payer in order to either make the intraocular lens of claim 42 or to practice the method of claim 36. Since claims 13-15 and claims 38-39 depend from claim 42 and claim 36, respectively, Applicant further contends that claims 13-15 and claims 38-39 are patentable over Payer at least for the same reasons that claims 42 and 36 are patentable thereover, and are patentable in their own right as well.

New Claims 43-45 Are Patentable Over Payer

New claims 43-44 and claim 45 depend from claim 42 and claim 16 (which depends from claim 42), respectively, and further distinguish embodiments of invention over the prior art. For example, Payer does not teach or suggest an opening for allowing fluids to enter and fill said chamber that is coaxial with the optic, such as is found claim 43. Also, Payer does not teach or suggest a posterior wall that converges toward an opening and that terminates to form the opening, such as is found claim 44. In addition, Payer does not teach or suggest an optic having an initial thickness that can be increased to a second thickness in response to ciliary body contraction, wherein the initial thickness is at least about 1.2 times greater than the second thickness when a force of from about 1-9 grams is applied to the optic positioning element, such as is found claim 45.

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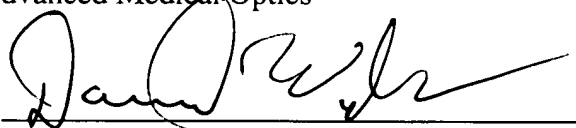
CONCLUSION

Applicant respectfully asserts that the claims now pending are allowable over the prior art. Therefore, Applicant earnestly seeks a notice of allowance and prompt issuance of this application.

The Commissioner is hereby authorized to charge payment of any fees associated with this communication to Deposit Account No. 502317.

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Respectfully submitted,
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